

SENATE BILL REPORT

E2SHB 2078

As of March 20, 2009

Title: An act relating to persons with developmental disabilities who are in correctional facilities or jails.

Brief Description: Concerning persons with developmental disabilities who are in correctional facilities or jails.

Sponsors: House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Roberts, O'Brien, Walsh, Jacks, Appleton, Goodman, Dickerson, Green, Kagi, Chase, Wood, Kenney and Haler).

Brief History: Passed House: 3/11/09, 96-0.

Committee Activity: Human Services & Corrections: 3/20/09.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Shani Bauer (786-7468)

Background: In 2003 the Legislature required the Criminal Justice Training Commission to develop a training session on law enforcement interaction with persons who suffer from mental illness and who have developmental disabilities. At the minimum, the training was required to address the following:

- the cause and nature of mental illnesses and developmental disabilities;
- how to identify indicators of mental illness and developmental disabilities;
- how to respond appropriately in common situations;
- conflict resolution and de-escalation techniques for potentially dangerous situations involving persons with mental illness or developmental disabilities;
- appropriate language use;
- alternatives to lethal force; and
- community and state resources available to persons who have a mental illness or developmental disabilities.

The statute passed by the Legislature in 2003 did not include a requirement for training to personnel for city and county jail facilities.

Summary of Bill: A new chapter in Title 71A RCW is created regarding offenders with developmental disabilities who are confined, however briefly, in correctional facilities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Screening Tool. The Developmental Disabilities Council (DDC) and the Washington Association of Sheriffs and Police Chiefs (WASPC) must jointly develop a screening tool that is simple and cost effective. They must also develop a model policy for the use of the screening tool by correctional staff and how to accommodate persons with developmental disabilities during their confinement. Local correctional facilities must provide training for staff and begin using the screening tool by July 1, 2011.

Work Group. The DDC and the WASPC must convene a work group in consultation with:

- the Department of Corrections;
- the Department of Social and Health Services (DSHS);
- Disability Rights Washington;
- consumer advocates; and
- other interested organizations.

The work group must develop recommendations and report to the Legislature by December 1, 2009 regarding:

- expeditiously reviewing and determining eligibility for developmental disabilities services for an offender with developmental disabilities prior to that offender's release;
- the role of the DSHS in providing consultation and technical assistance for reasonable accommodations for offenders in correctional facilities who have a developmental disability;
- increasing the authority of the courts to order alternatives to confinement prior to trial or following conviction where the sentence is 12 months or less;
- establishing a diversion option under the Sentencing Reform Act for persons with developmental disabilities; and
- the feasibility of developing and adopting law enforcement training for responding to persons with developmental disabilities analogous to crisis intervention training for response to persons with mental illness.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: A story was relayed regarding an individual whose mental capacity remained at that of a 12-15 year old because of a developmental disability. The individual, unfortunately, became involved with law enforcement when he gave a note to a bank teller pretending to be a bank robber. While in the Snohomish County Jail, he made new friends and learned new things and thereafter began taking drugs. As a result of his drug activity, he is now spending three years in prison. We need to find new ways of addressing these individuals so this doesn't happen. This bill is the first inch on the yardstick of change to ensure that we aren't doing more harm than good when interacting with this population in corrections.

The DDC is willing to do all it can to help with a screening tool. At one time, law enforcement did not have tools for dealing with this population either. Many people have collaborated to get the bill where it is now. Groups are already looking at what other states are doing in this respect to assist with the workgroup's task.

OTHER: Local corrections supports this policy but would like some technical corrections to the terminology. The bill also needs some clarity as to whether it applies to the Department of Corrections. Currently, an individual who has developmental disabilities is in one of the county jails. The problem has been identified appropriately by the facility, but yet supporting agencies are in disagreement over who would provide support in this instance. The recommendations are going to be very important to address what happens after corrections identifies an individual using the screening tool

Persons Testifying: PRO: Representative Roberts, prime sponsor; Donna Patrick, DDC; Diana Stadden, Arc of Washington; David Lord, Disability Rights, Washington.

OTHER: JoAnna Arlow, WASPC.